IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
April 6, 2006 Session

RONALD H. PEELER, ET AL. v. THE WAY INTERNATIONAL, INC., ET AL.

Appeal from the Circuit Court for Hamilton County
No. 02-C-1123 L. Marie Williams, Judge

No. E2005-01692-COA-R3-CV - FILED JULY 5, 2006

Dr. Ronald H. Peeler and his wife, Paige Peeler, are former members of The Way International, Inc. ("The Way"), a worldwide religious organization. The Peelers brought this action against The Way and several individuals alleged to be agents of The Way, asserting multiple tort claims arising out of The Way's alleged "coercive persuasion" and "mind control" practices. The trial court granted summary judgment to the defendants, finding that most of the Peelers' claims were time-barred, and that the First Amendment barred all of the Peelers' claims. On appeal, the Peelers argue that their claims are not time-barred; they rely upon the discovery rule. They also claim that the First Amendment does not insulate the defendants from their alleged wrongful acts. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed; Case Remanded

CHARLES D. SUSANO, JR., J., delivered the opinion of the court, in which D. MICHAEL SWINEY and SHARON G. LEE, JJ., joined.

Michael A. Anderson, Chattanooga, Tennessee, and Lawrence Levy, Sherman Oaks, California, for the appellants, Ronald H. Peeler and Paige Peeler.

Travis R. McDonough, Chattanooga, Tennessee, Louis A. Colombo, Cleveland, Ohio, for the appellees, The Way International, Inc., John R. Reynolds, Loy C. Martindale, Howard R. Allen, Rosalie F. Rivenbark, Harve Platig, and Stephen Roberts.

OPINION

I.

The Way is an international Christian organization that proclaims dedication to Biblical research, teaching, and fellowship. The organization was founded in 1942 by Dr. Victor Paul Wierwille, a former ordained minister of the Evangelical and Reformed Church. The Way says that

it strives to teach and practice Christianity as it was practiced in the first century after Jesus Christ and as is set out in the Book of Acts. Members of The Way congregate at "fellowships" held in the homes of local leaders. They read scripture, sing songs, and conduct lessons at the fellowships. The meetings are typically held twice a week and last an hour to an hour and a half. The Way also conducts classes for its members.

The Way adheres to the idea that "The Word of God is the will of God" and that the Bible should be read literally. The Way teaches its members to avoid debt. It bases this belief on the Biblical passage which states, "Owe no man anything except to love one another." Members of The Way's leadership are required to be debt-free. However, according to the defendants, The Way does not mandate that its general members be debt-free. Like many religions, The Way teaches that the Bible prescribes the tithe, or 10% of one's income, as the minimum amount an individual is to donate to the Church. The Way refers to this doctrine as "abundant sharing." Additionally, as seen in other religions, The Way believes in excommunication under certain circumstances. The Way refers to this practice as "mark and avoid," a phrase also derived from a Biblical text.

The Way, which is headquartered in New Knoxville, Ohio, is governed by a board of directors and has national, regional, state, and local coordinators. The defendants Reverend Rosalie Rivenbark and Reverend Harve Platig are current directors of The Way. The defendants Loy C. Martindale, Reverend John Reynolds, and Howard Allen are former directors. Directors are actively involved in The Way's ministry. They give teachings and sermons, prepare and present classes, coordinate events, and perform supervisory and administrative duties. The remaining named-defendant, Reverend Stephen Roberts, is a minister of The Way and the organization's state-level coordinator in Tennessee.

II.

Dr. Peeler was first introduced to The Way in 1972, while beginning his sophomore year at the University of North Carolina ("UNC"). Two students, who resided in his dorm suite, discussed the teachings of The Way with him and invited him to a fellowship. Dr. Peeler found the initial meeting "somewhat interesting" and continued to attend fellowships throughout his undergraduate years. According to Dr. Peeler, he usually attended one or two fellowships a week, depending on his academic schedule. Dr. Peeler graduated from UNC with a degree in psychology in 1974.

In 1976, Dr. Peeler began medical school at Wake Forest University. During the interim between his graduation from UNC in 1974 and beginning medical school in 1976, Dr. Peeler continued to actively participate in the beliefs and practices of The Way. He also continued his affiliation with The Way while attending medical school. During this period, Dr. Peeler married his first wife, Jeanne, a fellow member of The Way. In 1978, Dr. Peeler took a year off from medical school to attend The Way College of Emporia in Kansas ("The Way College"). On his application to The Way College, he stated that The Way had "'hit the spot' and filled a void in [his] life that [he] had been trying to fill for years."

After graduating from medical school in 1981, Dr. Peeler began a family practice internship. He later decided that he was better suited for emergency medicine, and in 1982, he began his emergency medicine practice in North Carolina. According to Dr. Peeler, he was initially interested in practicing in the field of pathology, but, as he states, a local coordinator pressured him into a "people-oriented" specialty in hopes that he could recruit new members for The Way. Dr. Peeler actively continued to affiliate with The Way for the next several years.

Dr. Peeler "drifted away" from The Way in 1987 after the death of its founder, Dr. Wierwille. He stopped attending fellowships and ended most of his affiliation with the organization. He did, however, continue to send small donations to The Way. At about this same time, Dr. Peeler began experiencing problems with anxiety and depression. He saw several counselors for these problems and was diagnosed with work-related post traumatic stress disorder ("PTSD"). In 1991, Dr. Peeler and his first wife divorced. He met and started dating his second wife, Paige ("Mrs. Peeler"), around this time. Mrs. Peeler, who is college educated, was not affiliated with The Way prior to meeting Dr. Peeler. The two met while working at the same hospital.

In 1992, Dr. Peeler received a phone call from a former acquaintance affiliated with The Way, inviting him back to the organization. After thinking it over, Dr. Peeler decided to attend a fellowship. He later wrote that he "[l]oved" the meeting and remembered how great he felt "when [he] used to live like this." (Underlining in original). Shortly thereafter, he introduced Mrs. Peeler, his then-girlfriend, to The Way. Mrs. Peeler researched The Way and decided to affiliate because, as she stated, she was "looking for the right answers" and "search[ing] for whatever God was." She was initially drawn in by how nice everyone was and how everyone seemed to believe that The Way provided all the answers. According to Mrs. Peeler, she "lost the ability to fully make her own decisions" after attending The Way's foundational course, The Power for Abundant Living. From then on, Mrs. Peeler attended numerous meetings and classes affiliated with The Way. She stated that, while attending one of The Way's advanced classes, she was told when to sleep, what to eat, when to use the phone, and what to read.

Dr. Peeler, who was questioning his profession at that time, began an MBA program through the University of South Florida. He quit the MBA program soon after, deciding that "it was taking too much of his time that he could have been spending on [The Way] activities." The Peelers married in 1993. They state that The Way's local coordinators told them that they needed to get married or end their relationship to remain in good standing with the organization.

In 1995, Dr. Peeler left his practice in emergency medicine because he "was feeling very overwhelmed by the situation and at the recommendation of one of [his] counselors." He also filed two disability claims for his work-related PTSD. After leaving emergency medicine, Dr. Peeler began practicing in the field of occupational urgent care. He began taking medication to treat his anxiety and depression around this time. He states that The Way's local coordinators told him to stop taking the medication. Dr. Peeler did, in fact, stop taking the medication for a short time. He never discussed The Way or mentioned the organization as a possible source of his emotional problems during his many counseling sessions. His occupation, and the constant stress associated

with it, was the primary source identified by Dr. Peeler and addressed in the counseling sessions. In 1998, Dr. Peeler left his practice in occupational medicine for a desk job in Chattanooga.

The Peelers state that, when they were deciding where to purchase a home in Chattanooga, they were told by The Way's local coordinators that they could not live on Signal Mountain because "there were devil spirits there and because it was too far away from the fellowship." They state that, when they were later deciding whether or not to buy an automobile, local coordinators told them "that they would be marked and avoided if they did so because they would be forced to incur debt." Additionally, the Peelers state that, in March, 1998, they became aware of the fact that certain coordinators had designated them a "soft mark and avoid" for a two-week period in 1997 because they declined to run a fellowship. Dr. Peeler testified that, when he learned of the designation in 1998, he was humiliated and embarrassed.

During their affiliation with The Way, the Peelers made frequent monetary contributions to the organization. The Peelers state that The Way demanded more than the tithe, *i.e.*, more than 10% of their income, and used threats of "mark and avoid" to pressure members into "abundant[ly] sharing." They state that Mr. Martindale, as president of The Way, dictated the required contribution percentages, and that they routinely gave anywhere from 12% to 23% of their gross income to the organization. They deducted these donations each year as charitable contributions on their income tax return.

In 1998, Dr. Peeler recovered $250,000 from one of the insurance companies with whom he had filed for disability regarding his work-related PTSD. They informed The Way's local coordinators about the settlement check and state that they were pressured to "abundant[ly] shar[e]" the proceeds with the organization. The Peelers decided not to tithe on the first settlement check, but they told The Way that they would tithe on the aggregate amount of both disability claims when they received the second settlement check. The Peelers used the money from the first check to purchase a home in Tennessee. They received the second check in early-1999. On February 12, 1999, Dr. Peeler wrote a check to The Way in the amount of $41,000, *i.e.*, 10% of the aggregate of both claims. The Peelers' tax return shows a deduction for this contribution.

In May, 1999, the Peelers began attending one of The Way's most advanced classes. A local coordinator later privately informed them that they had to stop attending the class because of the medication Dr. Peeler was taking for anxiety and depression. Dr. Peeler states that the same coordinator demanded that he stop taking the medication and threatened that they would be "marked and avoided" if he did not comply with the demand. After consulting with his psychiatrist, Dr. Peeler discontinued his medication.

In April, 2000, Rev. Roberts informed the Peelers and other members about a lawsuit against The Way and its then-president, Mr. Martindale. The lawsuit had been brought by a married member of The Way, with whom Mr. Martindale had allegedly had a sexual relationship. The Peelers were shocked by this news. Mrs. Peeler states that, at some point, Rev. Roberts told her that the board of directors knew about Mr. Martindale's affair, but decided to keep him in his role as president.

Several weeks later, they listened to an audiotape, informing members of The Way that Rev. Rivenbark would be replacing Mr. Martindale as president of the organization. The Peelers later discovered that there was a second lawsuit, alleging similar acts of sexual misconduct by Mr. Martindale. The Peelers state, that "[a]fter [they] learned of [Mr.] Martindale's affair, they began to consider leaving [The Way]." They began conducting independent research on The Way, its teachings, and Mr. Martindale. They also began discussing their doubts regarding the legitimacy of the organization with other members.

The Peelers attended their last fellowship in July, 2001. During the fellowship, Dr. Peeler asked Rev. Roberts for an update on the lawsuits. Rev. Roberts stated, as he had to earlier inquiries from Dr. Peeler on the same subject, that he had no additional information regarding the lawsuits. The Peelers thereafter formally ended their affiliation with The Way. They state that "[t]hey only obtained the power to leave the organization when things began to come to light about all of the deception that had gone on."

The Peelers filed this lawsuit on June 14, 2002. In general, they contend that The Way and the named-defendants exerted undue influence and made misrepresentations for their own financial benefit. They allege claims for negligent and intentional misrepresentation, fraud, deceit, intentional infliction of emotional distress ("IIED"), violations of the Tennessee Consumer Protection Act ("TCPA"), breach of fiduciary duty, and conspiracy. Notably, the Peelers do not allege any acts of physical harm or restraint. They do, however, allege threats "from the leadership of [The Way] that terrible things would happen to [members] or their families if they failed to follow [The Way] mandates."

The Peelers' first cause of action, "negligent misrepresentation, intentional misrepresentation, fraud and deceit," alleges monetary damages resulting from The Way's teachings and practices of avoiding debt and "abundant sharing." They state that, in fear of The Way's teaching that harm or death would come to them if they incurred debt, they withdrew money from their retirement accounts, rather than obtain a loan to purchase a home. They state that, in fear of being "marked and avoided," they were "coerced" into "abundant[ly] sharing" the proceeds of their disability settlement. They state that Rev. Roberts represented that they were required to give at least 10% of their net income, and that he knew that this money was not being used for The Way's outreach purposes, as stated, but rather for the "prurient interests" of The Way's leadership. They also state that, in 2000, Rev. Roberts misrepresented the fact that the events alleged in the lawsuits against Mr. Martindale were "consensual and non-predatory and that [it] was just a one-time mistake." They state that he "knew or should have known that the affair was not a one-time event but a pattern of activity by Mr. Martindale." The Peelers state that they generally relied upon the defendants' misrepresentations in deciding to continue their affiliation with The Way and to "abundant[ly] shar[e]" with the organization. Among the millions of dollars sought in compensatory and punitive damages, the Peelers seek a refund of the monetary contributions made by them to The Way between 1972 and 2001. They claim to have contributed approximately $250,000 over these years.

The Peelers' IIED claim alleges that The Way's "various manipulative and exploitative thought reform techniques" (*i.e.*, the "marked and avoided" doctrine, the fear of harm and death associated with debt, and the local leadership's response to Dr. Peeler's use of medications) caused them to sustain serious mental injury. They also allege that they suffered emotional distress after Rev. Roberts told the Peelers and other members that a recently deceased member, who died in a car accident, was killed because he did not live a debt-free life and because he lied on one of his applications to The Way. Dr. Peeler asserts that his experience with The Way and its leadership is a contributing source of his PTSD. He also states that, as a result of his experience with The Way, he no longer believes in God. Mrs. Peeler states that The Way cost her her family, friends, and self-respect. She states that she has also lost her belief in God.

Their third cause of action asserts that The Way's solicitation of contributions and selling of books and related-materials were deceptive practices under the TCPA. Their fourth cause of action claims that The Way and the named-defendants breached a fiduciary duty by controlling and influencing them "for their own selfish purposes." The last cause of action, the conspiracy claim, alleges that the defendants systematically conspired to coerce the Peelers out of money and time.

The defendants filed a motion for summary judgment, arguing (1) that most of the Peelers' claims were time-barred; (2) that the protections of the First Amendment to the United States Constitution barred the Peelers' claims; and (3) that the Peelers had failed to establish essential elements of each of their claims. The trial court granted the defendants' motion and dismissed the Peelers' complaint. The court's ruling was based upon its finding that there were no genuine issues of material fact with respect to the defendants' statute of limitations and First Amendment defenses. The Peelers appeal.

III.

The Peelers raise two issues for our review:

> 1. Did the trial court err in holding that most of their claims were time-barred?
>
> 2. Did the trial court err in holding that the First Amendment protected the defendants from liability on their claims?

IV.

Our standard of review of a grant of summary judgment is well-settled. In determining whether summary judgment is appropriate, a court must determine "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Tenn. R. Civ. P. 56.04. When determining whether or not there is a genuine issue of material fact, the trial court "must take the strongest legitimate view of the evidence in favor of

the nonmoving party, allow all reasonable inferences in favor of that party, and discard all countervailing evidence." ***Byrd v. Hall***, 847 S.W.2d 208, 210-11 (Tenn. 1993). A disputed fact is "material" if it must be decided to resolve the claim or defense at which the motion is directed. ***Id.*** at 215. Because a motion for summary judgment presents a pure question of law, our review is *de novo* with no presumption of correctness as to the trial court's judgment. ***Gonzales v. Alman Constr. Co.***, 857 S.W.2d 42, 44-45 (Tenn. Ct. App. 1993). In other words, we must decide anew if summary judgment is appropriate. In making this judgment, we review the precise record that was before the trial court and prompted the action of that court.

V.

The Peelers first argue that the trial court erred in holding that the majority of their claims were time-barred. Their complaint seeks damages for both personal and property injuries. The allegations that they were emotionally harmed and distressed by the defendants' actions sound in personal injury and are governed by the one-year statute of limitations found at Tenn. Code Ann. § 28-3-104(a)(1) (2000). *See* ***Leach v. Taylor***, 124 S.W.3d 87, 91 (Tenn. 2004). The alleged cause of action under the TCPA is subject to the one-year statute of limitations prescribed by Tenn. Code Ann. § 47-18-110 (Supp. 2005).[1] The allegations that the Peelers suffered economic injuries as a result of the defendants' conduct are "injuries to personal property" requiring the application of the three-year statute of limitations found at Tenn. Code Ann. § 28-3-105 (2000). *See* ***Vance v. Schulder***, 547 S.W.2d 927, 932 (Tenn. 1977) (citing a predecessor to Tenn. Code Ann. § 28-3-105).

The Peelers filed suit on June 14, 2002. The trial court found that their personal injury claims arising out of allegations or events occurring prior to June 14, 2001, were therefore time-barred. The trial court found that the Peelers' property damage claims, *i.e.*, the claims regarding their monetary contributions, made prior to June 14, 1999, were also barred. The Peelers contend that the discovery rule tolled each respective limitation period until around the time of their disaffiliation in July, 2001. They state that "[i]t [is] only at that point that they learned about the true nature of [The Way] and the deceitful, manipulative and tortious conduct that ha[d] been practiced on them by [The Way]." In addressing the discovery rule issue, the trial court found as follows:

> The plaintiffs contend the discovery doctrine is applicable and the statute of limitations is tolled until such time as the plaintiffs knew the cause of their injuries was activities of the defendants. The plaintiffs are under an obligation to exercise reasonable diligence to discover the injury. It is undisputed the plaintiffs were afflicted with the injuries alleged well before June 14, 2001. There is no dispute of

[1] Tenn. Code Ann. § 47-18-110 provides the following:

> Any action commenced pursuant to § 47-18-109 shall be brought within one (1) year from a person's discovery of the unlawful act or practice, but in no event shall an action under § 47-18-109 be brought more than five (5) years after the date of the consumer transaction giving rise to the claim for relief.

> fact as to when the injuries arose. The plaintiffs contend they were not aware of the cause of the injuries but the evidence is undisputed otherwise. There is no question of fact concerning which they could have discovered the cause of the injuries upon the exercise of reasonable diligence. Accordingly, the motion for summary judgment is sustained as to all claims for property damage accruing prior to June 14, 1999, and all claims for personal injury accruing prior to June 14, 2001.

The discovery rule provides that the applicable statute of limitations begins to run when the plaintiff discovers, or in the exercise of reasonable care should have discovered, that an injury was sustained as a result of wrongful conduct by the defendant. ***Shadrick v. Coker***, 963 S.W.2d 726, 733 (Tenn. 1998). The rule was designed "to alleviate the intolerable result of barring a cause of action by holding that it 'accrued' before the discovery of the injury or the wrong." ***Foster v. Harris***, 633 S.W.2d 304, 305 (Tenn. 1982). Whether the plaintiff has exercised reasonable care in discovering the injury or the wrong is generally a question for the trier of fact to determine. ***Wyatt v. A-Best, Co., Inc.***, 910 S.W.2d 851, 854 (Tenn. 1995).

We must decide if the facts before the trial court show that the Peelers knew or are chargeable with the knowledge "of facts sufficient to put a *reasonable* person on notice that he [or she] ha[d] suffered an injury as a result of wrongful conduct." ***Roe v. Jefferson***, 875 S.W.2d 653, 657 (Tenn. 1994) (emphasis added). Thus, the defendants in the instant case are entitled to summary judgment if, and only if, the facts before the trial court, and now before us, clearly show that the Peelers possessed sufficient information to put a reasonable person on notice of the respective claims prior to their formal disaffiliation in July, 2001. If there is any doubt about this, the defendants are not entitled to summary judgment on this issue. ***Byrd***, 847 S.W.2d at 211.

The Peelers claim that they "had no way of knowing the true nature of [The Way] and its leadership until around the time they made the decision to leave [The Way]" in July, 2001. They suggest that The Way's social pressures and "mind control" techniques tolled the applicable limitation periods because they were incapable of truly discovering their injuries and causes of action until they formally ended their affiliation with The Way. We cannot agree with this argument.

First, the Peelers' own testimony establishes that they were aware, or should have been aware, of the facts giving rise to their alleged causes of action years before July, 2001. For example, when discussing his reaction to The Way's response to his use of anxiety and depression medication in the mid-1990s, Dr. Peeler testified that he "was so devastated by what they were saying" at the time. He further testified that the incident led to "profound humiliation, embarrassment, and [was] inappropriate in [his] mind." Mrs. Peeler reiterated these feelings of humiliation and degradation. With respect to the Peelers' tithe of their disability settlement in early-1999, Dr. Peeler testified that he "never felt good about the decision," and that he told other members the day after he sent the check that he felt "pressured and coerced" to make the tithe. Furthermore, the Peelers' brief to this Court even states that they "began having seeds of doubt" and "began to consider leaving [The Way]" after learning of Mr. Martindale's lawsuits. They learned of Mr. Martindale's first lawsuit

in April, 2000; thus, they were aware that something was wrong with the "true nature" of The Way at least a year before July, 2001.

In addition, we note that there is absolutely no authority suggesting that simply being "brainwashed" tolls the running of the applicable statute of limitations. Tenn. Code Ann. § 28-1-106 (2000) tolls the applicable limitation period for persons who are "of unsound mind" when their cause of action accrues, but our courts have narrowly defined "unsound mind" as meaning "incapable of attending to any business, or of taking care of [one]self." ***Doe v. Coffee County Bd. of Educ.***, 852 S.W.2d 899, 905 (Tenn. Ct. App. 1992) (citation omitted). Clearly, this exception does not extend to the Peelers.

We hold that the trial court correctly determined that the discovery rule did not apply in this case. Thus, all claims for injuries to personal property accruing prior to June 14, 1999, and all claims for personal injuries accruing prior to June 14, 2001, are time-barred.

VI.

With respect to any claim not covered by the trial court's ruling on the statute of limitations issue (*e.g.*, claims that the Peelers suffered property injuries by making monetary contributions to The Way after June 14, 1999), and as an additional and independent basis for granting summary judgment to the defendants, the trial court also found that the Peelers' claims were barred by the First Amendment to the United States Constitution.

The Religion Clauses of the First Amendment provide that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const. amend. I.[2] The religious protections afforded by them embrace both a "freedom to believe and freedom to act" concept. ***Cantwell v. Connecticut***, 310 U.S. 296, 303, 60 S.Ct. 900, 903, 84 L.Ed. 1213 (1940). It is well-settled that "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection." ***Thomas v. Review Bd. of Indiana Employment Sec. Div.***, 450 U.S. 707, 714, 101 S.Ct. 1425, 1430, 67 L.Ed.2d 624 (1981). "In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all." ***Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church***, 344 U.S. 94, 114, 73 S.Ct. 143, 153, 97 L.Ed. 120 (1952) (citation omitted); *see* ***Sherbert v. Verner***, 374 U.S. 398, 403, 83 S.Ct. 1790, 1793, 10 L.Ed.2d 965 (1963) (stating that religiously-motivated conduct or actions may be regulated only when it poses a "substantial threat to public safety, peace or order.").

[2] "The First Amendment's Free Exercise and Establishment Clauses have been made applicable to the states by incorporation into the Fourteenth Amendment." ***State ex rel. Comm'r of Transp. v. Med. Bird Black Bear White Eagle***, 63 S.W.3d 734, 760 n.41 (Tenn. Ct. App. 2001) (citations omitted).

It is also well-established that "courts have no ecclesiastic jurisdiction, and do no pass upon questions of faith, religions, or conscience." ***Lewis v. Partee***, 62 S.W. 328, 333 (Tenn. Ct. App. 1901); *see* ***Watson v. Jones***, 80 U.S. (13 Wall.) 679, 733, 20 L.Ed. 666 (1872). Furthermore, courts may not disturb decisions regarding "questions of discipline, or of faith, or of ecclesiastical rule, custom, or law" made by a religious organization's governing body. ***Kedroff***, 344 U.S. at 115, 73 S.Ct. at 154 (citation omitted). Consequently, we may not pass judgment upon the legitimacy of The Way's religious beliefs or the sincerity with which they profess them. ***Med. Bird Black Bear White Eagle***, 63 S.W.3d at 764.

Regardless of how the Peelers classify their causes of action, all of their allegations lead us back to questioning The Way's religious beliefs and practices. For example, the Peelers' fraud and misrepresentation claim alleges that they suffered injuries as a result of The Way's teaching that they could only avoid harm or death by avoiding debt and "abundant[ly] share[ing]" with the organization. Of course, to establish fraud or misrepresentation, the Peelers must first prove that The Way made a misrepresentation of material fact. *See* ***First Nat'l Bank v. Brooks Farms***, 821 S.W.2d 925, 927 (Tenn. 1991). Such an analysis, if undertaken by this Court, would require us to evaluate the actual validity of The Way's religious beliefs on these subjects. Is it true that one must make monetary contributions to the Church to avoid harm? Is it true that avoiding debt keeps individuals safe and alive? The Peelers further assert that The Way's practice of "mark and avoid" was a tool used to intimidate and control them. Are we to evaluate and determine the legitimacy of the Biblical doctrine of excommunication? We think not. The Peelers allege severe emotional distress resulting from the The Way's reaction and conduct (*i.e.*, refusing to allow them to attend an advanced class) after finding out that Dr. Peeler was taking anti-anxiety and anti-depression medication. This allegation suggests that we determine whether The Way's beliefs and practices regarding such medication are reasonable or "outrageous." We cannot make such determinations.

In their brief to this Court, the Peelers assert that the challenged conduct, practices, and statements of the defendants are not protected by the First Amendment because, as they argue, the alleged conduct was *secular* in nature. *See generally* ***Hancock v. True and Living Church of Jesus Christ of Saints of the Last Days***, 118 P.3d 297, (Utah Ct. App. 2005); ***Roberts-Douglas v. Meares***, 624 A.2d 405, (D.C. 1992); ***Christofferson v. Church of Scientology of Portland***, 644 P.2d 577 (Or. Ct. App. 1982) (cases in which the evidence showed that a religious organization made misrepresentations for a secular and non-religious purpose). The allegations and evidence before us simply do not support a finding that The Way and its leadership acted for a secular or non-religious purpose. The Peelers' allegations against the defendants seek to prove matters that are unquestionably religious in tenor and content. The resolution of their issues would require us to examine and question the legitimacy of The Way's religious dogma. This is "a forbidden domain" to which we will not enter. ***United States v. Ballard***, 322 U.S. 78, 87, 64 S.Ct. 882, 887, 88 L.Ed. 1148 (1944).

VII.

The defendants raise the additional argument that the trial court's grant of summary judgment should be affirmed because the Peelers failed to present sufficient evidence establishing at least one element of each of their claims. In light of our holdings with respect to the two issues already discussed, we do not deem it necessary to reach this issue.

VIII.

The judgment of the trial court is affirmed. This case is remanded to the trial court for the collection of costs assessed below, pursuant to applicable law. Costs on appeal are taxed to the appellants, Ronald H. Peeler and Paige Peeler.

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CHARLES D. SUSANO, JR., JUDGE